

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LEROY RILEY

Plaintiff,

v.

CHARLES SIMPSON, KERRI CROSS,
DAVID MCCOY, CHARLES M. SHANE
MR. GASTON, sued in there
individual capacities,
DAVID J. GOOD, sued in his
individual and official
capacities

Defendants.

Civil Action No. 05-172E

Judge Sean J. McLaughlin
Magistrate Judge Susan B. Paradise

COMPLAINT

Jury Trial Demanded

Amended Complaint

Preliminary Statement:

This is a civil rights action filed by Leroy Riley a state prisoner for damages and injunctive relief under 42 U.S.C. § 1983 in violation of Due process of the Fourteenth Amendment of the United States Constitution.

Jurisdiction:

The Court has jurisdiction over plaintiff claims of violation of the Federal Constitutional Rights under U.S.C. § 1331(a) and 1343.

A) PRELIMINARY INFORMATION.

1. Where are you confined? SCI Pittsburgh
2. What sentence are you serving? 6 to 15 years.
3. What Court impose the sentence? Montgomery County Court

B) PREVIOUS LAWSUITS.

4. Have you begun other law suits in state or Federal courts dealing with the same facts involved in this action or otherwise relating to your confinement? No
5. Is there a grievance procedure in this institution? yes
6. What steps did you take? I informed them of the constitutional violation on date: / / ; What steps were taken, No action was
I was told it would be handled through the review board.

C) PARTIES.

7. Plaintiff is Leroy Riley, inmate at the SCI Pittsburgh, where the events discribe took place.
8. Defendant David Mc Coy acting DATSS, he is one of three appeal board member at Pittsburgh, he is responsible for reviewing all administrative appeals of disiplinary charges filed by Pittsburgh inmates, he is being sued in his official capacities.
9. Defendant Charles Shane, he is one of three board members at SCI Pittsburgh, he is responsible for reviewing all administrative appeals of disiplinary charges filed by Pittsburgh inmates, he is being sued in his official capacities.
10. Defendant Kerri Cross, is a hearing examiner at SCI Pittsburgh she is responsible for conducting disciplinary hearings for prisoner accused of bracking the rules, she is being sued in her official capacities.
11. Defendant Charles M. Simpson, is a correction Captain at SCI Pittsburgh, he is also one of three board members "appeal" responsible for reviewing all administrative appeal of disiplinary charges filed by Pittsburgh inmates, being sued in his official capâcities.

12. Defendent Mr Gaston, is a correction officer at SCI Pittsburgh, one of his jobs is to investagate rule violation by Pittsburgh inmates, and conducting write-ups for the violations, He is being suid in his indididul capacities.

D) FACTS. DENIAL OF DUE PROCESS:

13. On May 27, 2004 at 0700 hours the plaintiff was removed from his cell in general population at SCI Pittsburgh, for allegedly hitting his cellmate Mr Taylor, 15 minute latter plaintiff was interviewed by Luetenent Culp, after the interview plaintiff was place into administrative custudy by order of Captain Simpson.

14. The plaintiff was placed into a cell on the punitive segregation unit, into a cell with another inmate serving a punitive segregation sentence.

15. On May 31, 2004 While in administrative segregation the plaintiff received a misconduct report stating that two CSI's were in a location to observe Plaintiff and Taylor arguing about Taylor making nose in the early morning hours, and aruging about plaintiff not using his head-phones, and they also heard the plaintiff threatening Taylor, Taylor also conferm that he was hit.

16. At that point the plaintiff received a form to fill out, to write down his version of the events and any witness that he wish to call, plaintiff put down witness inmate Chandler as a witness.

17. On June 30, 2004 The plaintiff received a disiplinary hearing in front of defendent Hearing Examiner, Cross, at that point" the plaintiff handed the defendent Cross his witness list and statement of events.

18. Defendent Cross denied plaintiff witness, then after, she read the plaintiff misconduct report, at that point she desided to postpone the hearing to allow an in-camera reliblity hearing with C/O Gaston to establsh the credibilty of the two CSI's.

19. On June 7, 2004 the disciplinary hearing reconvened, the hearing examiner, "Ms Cross, states to the plaintiff that she had just recently gotten of the phone before the plaintiff arrival and the conversation was in regard to the in camera hearing, and the information that she received is as such," That the in-camera hearing was held on June 4th 2004, and that C/O Gaston gave sworn testimony that his Two CSI,s were in a position to observe as to hear violation, and they reported they heard a distinct sound of someone getting hit then after the hit they heard the plaintiff say " why don't you hit me back", and inmate Taylor confirm that he was hit.

20. At that point the hearing examiner ask the plaintiff, "how do he plead to the charges.

21. At that point the plaintiff informed the H/E, defendant Ms. Cross that do to the new allegation that just came to light that was not on the misconduct report "officers version of events", written prior to the in-camera hearing, that the inconstancy in the CIs version that the plaintiff would like to have the remainder of the hearing postponed in order to call witness, and to marshal a defence.

21. The request was denied, and the plaintiff was found guilty and given 60 da punitive segregation.

22. At that point the defendant H/E Ms. Cross handed the plaintiff his written statement of facts detailing the evidence relied upon.

23. Pursuant to procedures on June 7, 2004 the plaintiff filed a administrative appeal with board member, (PRC) Mr. Simpson, MC Coy, and Mr. Shane, "defendants", pointing out specific constitutional violations,

24. On 6/9/04 the plaintiff appeal by the PRC board was denied.

25. On 6/8/04 the plaintiff requested written statements, of Taylor version of events for the plaintiff defence, the request was made to Captain Simson, The request was never answered to, "denied".

June 8th, 2004 the plaintiff by grievance appealed to the Superintendent, A notice was sent back to the plaintiff directing him to follow in according to 801 VIL (3b) see exhibit 1; A1-and 2

801 VIL 3b (see exhibit

27, After the appeal was denied by the Programme Review Committee, On January 12, 2004 the plaintiff resubmitted his appeal to the Superintendant Office Mr. Good, this appeal was never responded to nor answered.

28. Thereafter, after receiving no response from the Superintendant Office, the plaintiff filed a timely appeal to the Chief Hearing examiners office according to DC ADM 801.

29, On September 14, 2004 the plaintiff received a letter from the Chief hearing examiner reporting that the appeal was received and that the plaintiff failed to include the Superintendant appeal response, also in "notation" the Chief H/E personally sent for a copy of the Superintendant appeal response, The superintendant again failed to respond to the plaintiff and the Chief H/E. see Exhibit B.

30 On September 20, 2004 the plaintiff once again received a letter from the Chief H/E requesting that the Superintendant appeal response, It noted that the appeal may be considered timely because of the time consumed by the erroneously directing the appeal at the discretion of the recipient of the next appeal see, Exhibit C.

31, There-after On September 22nd the plaintiff once again filed his appeal to the Superintendant office, this appeal was stamped received on Oct 1, 2004, never-the-less the inclose information and the documents that were sent was never returned nor responded to, see Exhibit (D).

32, Within the above date September 22, 2004 the plaintiff submitted to the Superintendant, one dated 12/5/04 and the other dated 1/5/05 See Exhibit E and F.

33. Finally on January 5, 2005 the appeal or request was responded to by the Assistant Superintendant Thomas W. Seivering, he stated that his office never received a request nor an appeal of misconduct No. A602109 by the plaintiff.

34. Notably this was not true for the fact two appeals were submitted Exhibit A, and Exhibit D, were stamp "received" by his office.

35 As a result of the Superintendant failure to respond to this plaintiff appeal, the plaintiff had no other remedy but to file this complaint directly thereby "exhausting his administrative remedies under 42 U.S.C. § 1997e(a).

E) Clames of relief:

36. Defendant Mr Simpson, Mr McCoy, and Shane, in refusing to over turn plaintiff disiplinary conviction dispite there knowledge of the dis-cribe Due Process violation, and failing to correct them. The violâtion was obviously on "in" the record, denied the plaintiff of Due Pro-cess of law in violation of the fourteenth amendment of the United States Constitution, by having Captain Simpson sit on the review board denied the plaintiff inpartial tribunal.

36. Defendant Captain Simpson, for procedure violation, for atho-rizing the administrative custody of the plaintiff under punitive condiction by placing him into a cell with another inmate serving a punitive sentence, constituted atypical hardship, dening the plaintiff of due process, For failure to act on the unconstitutional acts of his subernates and failure to be responsable for preventing it, constituted delibrat indeffrence further dening the plaintiff of due process of law in violation of the United States Constitution.

37. Defendant Ms Cross actions for refusing to call plaintiff wit-ness after the reconstructed testimony by the C.S.Is. By receiving this information by phone, and failing to review this materal evi-dence (in-camera) documenting the investagater assesment of the credibilty of the C.S.Is. The evidence did not meet the propoundence of the evidence rule, failure to give specific facts finding, detailing the evidence relied upon to support her verdict, and not just stating the inmate is guilty as written, denied the plaintiff of due process of law in violation of the fourteenth amendment of the United States Constitution.

38. Defendant Mr Gaston, action for his inderect participation of of the plaintiff due process right violation, by seting in motion a series of events that he know or reasonable should have cause a constitutional violation, also technical error in his report affected the plaintiff ability to understand and defend the charge's, denied the plaintiff due process of law in violation of the Fourteen Amendment of the United States Constitution

39. Superintendent Good for failure to respond to repeated request to evaluate plaintiff final review of his misconduct that he should have reasonable known would have caused a violation of the plaintiff Constitutional rights of the fourteenth Amendment.

40. The plaintiff has no other plain, adequate or complete remedy at law to redress the wrongs described herein, plaintiff has been and will continue to be irreparably injured by the conduct of the defendant unless this court grants the declaration and injunctive relief which plaintiff seeks.

WHEREFORE, Plaintiff respectfully prays that this Court herein enter judgement granting plaintiff:

(a) A declaration that the acts and omissions described herein violated plaintiff right under the Constitution and laws of the United States.

(b) Issue an injunction ordering Superintendent Mr. Good to expunge plaintiff disciplinary conviction describe in this complaint from his institutional record.

(c) Compensatory damage in the amount of \$ 1000.00 dollors againnt each defendant, jointly and severally for time and lost wages

(d) Punitive damages in the amount of \$2000,00) Two thousand dollors against defendant Mr Gaston.

(e) A jury trial on all issues triable by jury.

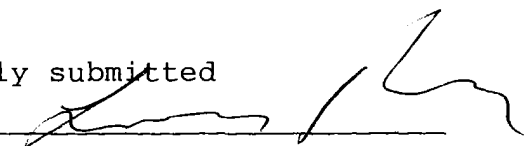
Plaintiff cost in this suit.

(f) Any additional relief this Court deems just and proper and eu equitable.

Date:

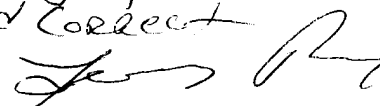
Respectfully submitted

7/2/06



I verify under Penality of Perjury that
The foregoing is True and Correct

5



7/2/06

Misconduct Administrative Procedures
Document

Misconduct Administrative Procedures

Document

Exhausting of Administrative
Remedies 42 U.S.C. § 1997e(n)

FORM DC-141 PART 1 Rev 3/00		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS			A 505125	
<input type="checkbox"/> MISCONDUCT REPORT <input checked="" type="checkbox"/> OTHER <input type="checkbox"/> DC-ADM 801 INFORMAL RESOLUTION						
DC Number	Name	Institution	Incident Time 24 Hr. Base	Incident Date	Date of Report	
Quarters	Place of Incident					
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)						
DC Number	Name	I	W	DC Number	Name	I W
MISCONDUCT CHARGE OR OTHER ACTION						
Housed under Close Administrative Custody. DC ADM-802, Article 6, Section A, Subsection 1-F						
STAFF MEMBER'S VERSION You are being placed on Close Administrative Custody per order of						
CAPT Simpson This is being done according to DC ADM-802						
Article 6, Section A, Subsection 1-F. You have been charged with or are under investigation						
for a violation of facility rules and there is a need for increased control pending disposition						
of charges or completion of the investigation. 11/10/04 1570 1000 1000						
Riley 1000 1000 1000 1000 1000 1000						
By order of 11/10/04 1570 1000 1000 1000 1000						
IMPARTIAL TRIBUNAL Direct involvement in investigation By ordering Administrative Custody and sitting on appeal Not Documenting Charges for Detention on this Report						
IMMEDIATE ACTION TAKEN AND REASON						
PRE-HEARING CONFINEMENT						
IF YES						
<input type="checkbox"/> YES	TIME	DATE				
<input type="checkbox"/> NO						
REPORTING STAFF MEMBER SIGNATURE AND TITLE		ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY SIGNATURE AND TITLE			FORMS GIVEN TO INMATE	
					<input type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION <input type="checkbox"/> INMATE'S VERSION	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE TIME		MISCONDUCT CATEGORY <input type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2			DATE AND TIME INMATE GIVEN COPY	
					DATE TIME 24 HOUR BASE	
					Signature of Person Serving Notice	
NOTICE TO INMATE You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law, if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.						

WHITE — DC-15 YELLOW — Inmate PINK — Reporting Staff Member GOLDENROD — Deputy Superintendent Facility Management

Threat to DROP *Before they* *goes to STATE* *BK*

FORM DC-141 PART 1 Rev 3/00		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS				A 602109	
<input checked="" type="checkbox"/> MISCONDUCT REPORT <input type="checkbox"/> OTHER <input type="checkbox"/> DC-ADM 801 INFORMAL RESOLUTION							
DC Number FQ8672	Name Riley Leroy	Facility SCIP	Incident Time 24 Hr. Base Apr 0700	Incident Date 5/31/04	Date of Report 5/31/04		
Quarters A1A1015	Place of Incident D225						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							
DC Number	Name	I	W	DC Number	Name	I	W
FN5838	Taylor, William						
MISCONDUCT CHARGE OR OTHER ACTION							
A. Class 1 #1 - Assault / A. Class 1 #17 - Threatening another Person							
STAFF MEMBER'S VERSION							
From April 2004 through May 27, 2004, inmate Riley FQ8672, at Taylor, FN5838, had been having arguments pertaining to Taylor making noise in the early morning, and Riley playing his guitar without headphones late at night. During this time period, Riley made verbal threats of violence to Taylor. On May 27, 2004, at approximately 0700 hrs, Riley strikes Taylor in the right side with his closed fist as Taylor was lying on his bed. Information for this misconduct was obtained from CSI's 145 DC ADM 801, CSI's were either in a position to observe the violation or have been reliable in the past. The date of incident differs from the date of report due to investigation of this incident.							
IMMEDIATE ACTION TAKEN AND REASON							
Informal Resolution Only							
PRE-HEARING CONFINEMENT							
IF YES							
<input checked="" type="checkbox"/> YES	TIME 1838	DATE 5-31-04					
<input type="checkbox"/> NO							
REPORTING STAFF MEMBER SIGNATURE AND TITLE		ACTION REVIEWED AND APPROVED BY RANKING 2.0. ON DUTY			FORMS GIVEN TO INMATE REQUEST FOR WITNESSES AND REPRESENTATION		
[Signature]		[Signature]			INMATE'S VERSION		
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER		MISCONDUCT CATEGORY			DATE AND TIME INMATE GIVEN COPY		
DATE 6-2-04		TIME 0900		<input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2		DATE 5-31-04 TIME 24 HOUR BASE 1838	
NOTICE TO INMATE							
You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law, if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.							

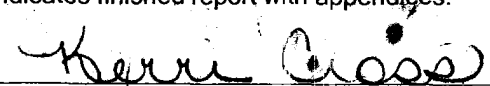
WHITE — DC-15 YELLOW — Inmate PINK — Reporting Staff Member GOLDENROD — Deputy Superintendent Facility Management

DC-141 PART 2A		COMMONWEALTH OF PENNSYLVANIA			
Rev. 6-84 INMATE REQUEST FOR REPRESENTATION AND WITNESSES		DEPARTMENT OF CORRECTIONS			
DC Number	Name	Facility	Date	Number as on Part I	
28672	Riley, Larry	SCIP	5/31/04	A 602104	
<p>You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.</p> <p>In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.</p>					
<p>Assistance: <input type="checkbox"/> I do not request assistance <u>Inmate Chandler D-Block (3)</u></p> <p><input type="checkbox"/> I request assistance by _____ (The person requested must be willing to assist you)</p> <p>Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give</p> <p style="text-align: right;"><i>No Riley can understand charges + evidence</i></p>					
<p style="text-align: center;">If Inmate</p> <p>1. Name of Witness: <u>Chandler</u> No. _____ Quarters <u>D-Block</u></p> <p>Why is this person's testimony relevant and important? <u>I CONFIDED IN HIM THAT TAYLOR WAS BEING DISRESPECTFUL AND THIS WITNESS TOLD ME THAT THIS LOOK LIKE A SET UP TO GET ME A MISCONDUCT BY TAYLOR AND TO GET OUT OF THAT BAD SITUATION</u></p>			<p>DO NOT WRITE IN THIS SECTION For Use by Hearing Examiner</p> <p>Witness permitted? _____ If not, why not? <u>No - not needed to establish Guilt/innocence</u></p>		
<p style="text-align: center;">If Inmate</p> <p>2. Name of Witness: _____ No. _____ Quarters _____</p> <p>Why is this person's testimony relevant and important? <u>HE HEARD ABOUT THE TV ON AT NIGHT BUT HE NEVER HEARD ME THREATENING MR TAYLOR</u></p>			<p>Witness permitted? _____ If not, why not? _____</p>		
<p style="text-align: center;">If Inmate</p> <p>3. Name of Witness: _____ No. _____ Quarters _____</p> <p>Why is this person's testimony relevant and important?</p>			<p>Witness permitted? _____ If not, why not? _____</p>		
<p style="text-align: center;">Inmate's Signature</p> <p>_____</p>			<p style="text-align: center;">K Cross</p> <p style="text-align: center;">Hearing Examiner's Signature</p>		
<p>This section to be completed by Housing Officer only</p> <p>Received completed form _____ hours _____</p> <p style="text-align: center;">Time Date</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Housing Officer's Signature</p>					

Request to Staff ~~an~~ Before the L.A. 43

DC-141 PART 2 C		COMMONWEALTH OF PENNSYLVANIA	
Rev. 2-02 HEARING SUPPLEMENT		DEPARTMENT OF CORRECTIONS	
INMATE VERSION AND WITNESS STATEMENTS			
DC Number	Name	Facility	No. from PART I
603670	L. L. L. L.	SCI	A602104
INMATE'S VERSION			
<p>on 4/20/04 6:30 AM I ask Mr Taylor would He please report the lights and peace of others in the cell. by not turning on the lights and making noise 6 AM His Response NO I cant him what to do so that night I till my Tkon all night. Next day Taylor ask to be move. Move granted. Taylor inform me he could not find anyone to move with so we agreed to work things out. Everything was fine for 3 days until Tuesday 26 2004 Taylor turn the light on and rolling papers at 6 AM Wednesday same, when I ask Taylor I thought we had an agreement. He said (you do your time and I'll do mine) That evening I ask him do he have the smokes He promiss to give me. He said no! I ask him why. He said I dont have to explain nothing to in me we where loud and we both said some things out of anger. There where no threats. The same night also I did not put my headphones on. He called the guard at 1 AM the Guard said it will be resolved in the morning. 6 AM we where call down the sergeant said we will be separated by room I went back to my cell and ask my cell mate a Question He said Fuck me I said Fuck you He jump of the bed and ran down to the police and said I hit him. To an attempt to punish me 15300 For calling him a fucker. I said:</p> <p>#1 Threating) At no time did I threaten Mr Taylor. Mr Taylor had the green light to move at any time 30 days (He lived with me in peace) Mr Taylor Beke that peace, no! I. We Both said things to each other out of anger you a Bitch Fuck you. That could have sound threatening.</p> <p>I said Assault I went back to my cell The Question I ask Mr Taylor was: Why did He lie on His Request to Staff Dated 4-23-04 That I Threating to punch him in the Face (He given to Sergeant in an attempt to be moved. He admitted it was a lie ^{on some meetings 4/22/04} I said Fuck you, Fuck ^{me} I call him a Bitch He jump of the bed and ran down and told the guard another lie That I hit him. "A Blatant Lie" Mr Taylor Chose to stay in the same cell for over 30 days with someone he was fear of. This is a violation of the law. Mr Taylor to punish me with a violation.</p>			

(5)

DC-141 • Part 2B Rev. 6-84		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS				Pg 1 of 2
DISCIPLINARY HEARING REPORT						
DC Number F08672	Name RILEY, LEROY	Facility SCIP	Hearing Date 6-7-04	Hearing Time 10:5	No. from Part 1 A602109	
INMATE PLEA	<input type="checkbox"/> Guilty <input type="checkbox"/> No Plea <input checked="" type="checkbox"/> NOT Guilty <input type="checkbox"/> Other		Verdict	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty		
HEARING ACTION						
CHARGES 1, 17						
FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED						
<p>6-3-04- Riley pleads <u>NOT GUILTY</u> - Submits written version</p> <p>Examiner notes hearing is continued to allow CSI incamera reliability hearing with charging staff member.</p> <p>On Friday, June 4th, 2004 an incamera hearing was conducted with % <u>Goston</u>. The purpose of the hearing was to establish the reliability of the 2 CSI's used. % <u>Goston</u> gave sworn testimony that his 2 CSI's were in a position to observe as they could hear what happened. In addition, both CSI's have provided reliable information in the past and the % explained in detail what was provided and how it proved to be reliable. According to the %, both CSI's were aware of and heard Riley and Taylor arguing about moving to another cell. During the argument, the CSI's report they heard a distinct sound of one inmate hitting another. Immediately following, the CSI's state - they heard Riley saying, "Why don't you hit me back" (Examiner notes both CSI's provided corroborating statements concerning this incident. In addition, Taylor confirmed that Riley struck him during the argument.</p> <p>All information shared with Riley.</p> <p>Riley - again pleads <u>Not Guilty</u></p>						
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> NO		The inmate has heard the decision and has been told the reason for it and what will happen. The circumstances of the charge have been read and fully explained to the inmate. The opportunity to have the inmate's version reported as part of the record was given. The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.			SEE APPENDICES VERSION Witness sheet	
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)		Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.				
Kerri Cross		 SIGNATURE OF HEARING EXAMINER/COORDINATOR				

DC-141 Rev. 6-84		Part 2B		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS		
DISCIPLINARY HEARING REPORT						
DC Number FQ 3672	Name RILEY	Facility SCIP	Hearing Date 6-7-04	Hearing Time 1015	No. from Part 1 A602109	

INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty
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HEARING ACTION

CHARGES 1,17

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

The examiner accepts report and statements from 2 CSI's who have been established as reliable to be more credible than Riley's denial. I find the 2 CSI's heard a distinct sound of one inmate striking another and Taylor confirmed that during the argument - he was hit. I believe Riley struck Taylor during an argument constituting #1 -

Based on Report

Guilty #1 } 60 days DCs

Note The misconduct report and this report gives two different version of events. Recastored testimony of 2 CSI

AND SIR YOU KNOW AND I KNOW YOU CAN NOT HEAR A HIT (BODY SHOT) FROM ONE CELL TO ANOTHER
try it! Dismiss #17

- | | | |
|------------------------------|-----------------------------|--|
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | The inmate has heard the decision and has been told the reason for it and what will happen. |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | The circumstances of the charge have been read and fully explained to the inmate. |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | The opportunity to have the inmate's version reported as part of the record was given. |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review. |

SEE APPENDICES

version
withas sheet.

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

Kerni Cross

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

Kerni Cross
SIGNATURE OF HEARING EXAMINER/COORDINATOR

6/9/04

DC-141 PART II E
MISCONDUCT HEARING APPEALCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PART I
FD 8672	LEON RILEY	SCF?	

I was found guilty of misconduct # A602109 on 6/7/04 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:
Check Area(s) Involved

- a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;

*CST STATEMENT DONT SUPPORT ORIGINAL FACTS
STATEMENTS CSI GIVEN ON 2 DATES DONT MATCH EACH OTHER*

- b. The punishment is disproportionate to the offense;

SEE CAPT SIMPSON STATEMENT INTERVIEW TAYLOR

- c. The evidence was insufficient to support the decision.

ITS HIGHLY LIKELY THAT TAYLOR CONFIDED WITH CSI ON CORROPERATING STORY

Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

1. ON 5/27/04 Capt Simpson took A STATEMENT FROM RILEY AND EMPLOYEY TAYLOR, THERE WAS AN STATEMENT BY TAYLOR OF THREAT ARGUMENT CELL CHANGE - STATEMENT WHY DONT YOU HIT ME BACK. 5/31/04 - DC141 CSI HEARD THREAT, TV NOISE, CAPTION, CSI REPORT DONT MATCH CAPT SIMPSON AND TAYLORS WRITTEN STATEMENT - BASE ON REPORT DC141 HEARING WAS HELD 6-3-4 - CONTINUED IN CAM HEARING % GASTON NEW DC141 20 AS A RESULT (HIGHLY EXASPERATED) CSI HEARD HITTING SOUND - FIGHTING OVER A CELL CHANGE - WORDS BY RILEY, WHY DONT YOU HIT ME BACK. ABSOLUTLY THIS NEW STATEMENT DO NOT MATCH STATEMENT 5/31/04 AND 5/27/04 ABSOLUTLY NONE OF THESE NEW STATEMENT WHERE MADE PRIOR TO FIRST MISCONDUCT HEARING IT WAS IMBELISH FOR THE 2ND THE CONTRADICTION DISCREPANCY OR A MAGNITUDE PUTTING % CSI'S RELIABILITY INTO QUESTION. MOREOVER ITS SAID THAT 2 OR MORE CONTRADICT DISCREPANCY CAN REPEAL STATEMENT FACTS AND NEGATE RELIABILITY ALSO THERE NO INDEPENDENT BASIS TO JUDGE THE RELIABILITY OF CSI THERE NO SIGN STATEMENT BUT AM DO HAVE % GASTON STATEMENT TO WHICH THE STATEMENTS DONT MATCH % SPEAKING TO CSI IT DONT MATCH PRIOR STATEMENT NOT CONSISTENT WITH PRESENT ALSO NOT TO BE ABLE TO FACE YOUR ACCUSOR DENIED DUE PROGRESS OF LAW 14th AMENDMENT SO BRUSLY THE WORD OF OFF GASTON, AND HE NEVER TOLD A LIE ITS ALL MOST IMPOSSIBLE TO HERE SOMEONE THROUGH ONE POUCH OVER ARGUMENT AND TV PLAYING WHILE THE WHOLE JAILS LOCK DOWN ANY NUMBER OF THINGS CAN MAKE THE SAME SOUND - LIKE JUMPING OF THE BED FEET HITTING THE GROUND AS WHAT TAYLOR, AND WHAT MAN YOU KNOW GOING TO STAND THERE AND SAY WHY DONT YOU HIT ME BACK "CHIKASH" ME AND TAYLOR THE ONLY ONES IN THAT CELL AND THE ONLY ONE IN THE JAIL THAT KNOW WHAT HAPPENED. MR TAYLOR WALK OUT OF THAT CELL UNHURT UNHIT AND TOLD THE GUARDS A LIE I'M THE VICTOR TAYLOR THE BAD GUY

DC-141 PART II E
MISCONDUCT HEARING APPEAL

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PART I
EQ 8672	LEROY RILEY	SCF P	Page 2

I was found guilty of misconduct # A-602109 on 6/7/04 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:
Check Area(s) Involved

a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;



b. The punishment is disproportionate to the offense;



c. The evidence was insufficient to support the decision.



Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

THIS IS A CLASSIC CASE OF REAL ROAD THE DUM IN MATE TO GASTON KNOW HE WOULD NEED TWO CSE TO CORROBORATE WHAT EACH OTHER HEARD WHY? BECAUSE IF IT WAS JUST ONE CSE THEN WERE BACK TO WHERE THEY STARTED - I CSE SAY HE DID DO IT AND RILEY DENYING IT BUT WITH TWO % GASTON GOT THE JUMP - WHAT OF THE CHANCES OF FINDING TWO CSES 7 AM LOCK DOWN HEARING THE SAME THINGS IF THEY WERE NEXT DOOR (CSE) WOULD BRING US BACK TO WHAT THEY HEARD. REPORT 5/27/04 CAPT SIMPSON INTERVIEW THERE NO MENTION THE FIGHT ARGUMENT ONLY 0700 ABOUT NOSE. THE ARGUMENT WAS ABOUT A REQUEST SLIP GIVING TO THE SERGEANT AT 0710 "BY TAYLOR AND WHAT WAS ON IT AND ALSO TAYLOR JUMPING OF THE BED AND A NUMBER OF THINGS COULD MAKE A TUMPLING SOUND AS A HIT. ALSO IT WAS VERY CONVENIENT TO LATER THROUGH IN (WHY DONT YOU HIT ME BACK) NOIL IN THE COLLAR COMPARE WITH THE ORIGINAL STATEMENT AND CSE. CSE IS A FABRICATION THE QUESTION IS WHO ARE THEY CSE AND WHERE THEY WHEN THEY HEARD THE 30 SEC ARGUMENT ALSO IT POSSIBLE TAYLOR HAD THE OPPORTUNITY TO CONVERSE WITH THE CSE ON THERE STORY 5/27 - 6/4 AND THE NEXT DOOR NABOB HIS BEST FRIEND" AND HOW DO WE KNOW THE 2 CSE STORY CORROBORATE NONE OF US WAS THERE WHEN IT WAS GIVEN BUT % GASTON AKA JOHN THE BAPTIST AND HE WOULD NEVER TELL A LIE AND THERE NO WRITTEN STATEMENT HOW CAN I TELL THE TRUTH AND HAVE A FAIR HEARING WHEN "CONVENIENT AND SERVES A CONVICTION WHEN % GASTON HAS THE POWER CREA" - CSE WITH THE STRET OF HIS IMAGINATION IN A DREAM AND NOBODY SAY BRING THEM. "CSE" HE SAID THEY CSE SAVE RILEY TESTIMONY IN THE PAST CSE THE QUESTION IS WHO GAVE IT AND IN THIS CASE WHERE WERE THEY WHEN THIS OCCURRED. I REQUEST AN INDEPENDENT INVESTIGATION BECAUSE IS NOT FAIR - THEN DONT BRING THEM. WHITE-DC-15 YELLOW-Inmate OF CSES IF THEY DO

A 1 A 1015

⑦

DC-141 Part 3
Program Review
Committee ActionCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

Revised 6/02

☐ Misconduct Appeal ☐ Periodic Review ☐ Other

DC Number	Name	Facility	Date of Review	No. from DC-141 Part 1
FQ 8672	Leroy Riley	SCI-P	6/9/04	A 602109

Program Review Committee's Decision and Rationale

Points of Appeal

A: Procedures: Inmate claims procedures not followed

B: Punishment: Claims should not have been sanctioned.

C: Evidence: Claims CSI's were not reliable.

Denial of PRC: Procedures were followed
H/E had second hearing to establish
Credibility of CSI's. H/E found evidence
more reliable than testimony of inmate.
Sanctions imposed appropriate for charge.

Possion
Possion

Sustain

Decision Relative to Hearing Examiner's Verdict

☐ Not Applicable ☒ Sustain ☐ Sustain-Amend ☐ Refer Back for Further Study ☐ Exonerate Inmate

Names of Program Review Committee Members	Signatures	Date
David McCoy, Acting DATSS	[Signature]	6/9/04
Charles M. Shores, Principal	[Signature]	6/9/04
Charles M. Shores, Principal	[Signature]	6/9/04

WHITE - DC-15

YELLOW - INMATE

PINK - STAFF MEMBER REPORTING MISCONDUCT

GOLDENROD - DSFM

DC-141 Part III
90 Day ReviewCommonwealth of Pennsylvania
Department of Corrections

A 4008

DC Number	Name	Inst.	Rvw. 90 Day	# of Review
FQ8672	[REDACTED]	PIT	08/25/2004	1

Program Review Committee's Decision and Rationale

Initial Reason for Confinement

Inmate Riley was placed on Close Administrative Custody per order of Capt. Simpson. This was done according to DC ADM-802, Article 6, Section A, Subsection 1-F. He is charged with or is under investigation for a violation of facility rules and there is a need for increased control pending disposition of charges or completion of the investigation. On 6/7/2004 Inmate Reily RECD 60 days DC EFF 5/31/04 thru 7/29/2004 for #1, assault. On 7/23/2004 Inmate Riley was placed under Close Administrative Custody in accordance with DC ADM-802, Article 6, Section A, Subsection and per order of Capt. McConnell. He is a danger to himself or others.

EXHIBIT 9B

PRC Comments

On 8/4/2004 Inmate Riley met with PRC due to his placement in AC status upon completion of his DC time. He is to be seen in 2 weeks. ADDENDUM: Based upon all available information, including a recommendation by the RHU staff, release to population effective 8/11/04.
cc: Capt. McConnell, Ms. Sorbin

Decision Relative to Hearing Committee's Verdict

<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Sustain	<input type="checkbox"/> Sustain-Amend	<input type="checkbox"/> Refer Back for Further Study	<input type="checkbox"/> Exonerate
Names of Program Review Committee Members		Signatures		Date
Paul J. Stowitzky, Deputy Supt.		<i>[Signature]</i>		8-19-04
Marlene M. Stewart, CCPM		<i>[Signature]</i>		8/13/04
Pamela K. Teeter, Captain		<i>[Signature]</i>		8-17-04

EXHIBITS

Exhaustive Administrative Proceedings
42 U.S.C. § 1992e(a)

DC-804

Part 1

JUN 08 2004

SUPERINTENDENT

OFFICIAL INMATE GRIEVANCE

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598

FOR OFFICIAL USE ONLY

85969

GRIEVANCE NUMBER

TO: FACILITY GRIEVANCE COORDINATOR	FACILITY: SCP	DATE: 6/8/04
FROM: (INMATE NAME & NUMBER) LEROY RILEY FQ8672	SIGNATURE of INMATE: Leroy Riley	
WORK ASSIGNMENT: None	HOUSING ASSIGNMENT: A1 A1015	
<p>INSTRUCTIONS:</p> <ol style="list-style-type: none"> 1. Refer to the DC-ADM 804 for procedures on the inmate grievance system. 2. State your grievance in Block A in a brief and understandable manner. 3. List in Block B any actions you may have taken to resolve this matter. Be sure to include the identity of staff members you have contacted. <p>A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages.</p> <p>(6/7/04) I WAS FOUND GUILTY OF A CLASS I ASSAULT MISCONDUCT (C/O EASTON WAS THE INVESTIGATING OFFICER DETAIL (602109))</p> <p>I WAS FOUND GUILTY BASED ON CSI CLAIMS TO BEING IN THAT LOCATION TO HEAR AN ARGUMENT AND THE SOUND OF SOMEONE BEING HIT. I KNOW THIS CAN NOT BE TRUE BECAUSE THIS INCIDENT TOOK PLACE AT 0700 5/27/04 AND THE JAIL WAS LOCK DOWN FOR COUNT. C/O EASTON CLAIMS 2 CSI CORROBORATED THEIR STORY MATCH. THERE NO SIGN STATEMENT OR VIDEO RECORD OF CSI TO SUBSTANTIATE THEIR CLAIMS. I AM REQUESTING AN INDEPENDENT INVESTIGATION OF THESE 2 CSI IF THEY TRULY EXIST AND WHERE WERE THEY POSSIBLY WHEN THEY HEARD THE ARGUMENT. THIS IS NOT FAIR AND A MISSEARSE OF JUSTICE.</p> <p>IM AM BEING DENIED DUE PROGRESS UNDER THE 14TH AMEND TO HAVE WITNESS COME FORTH.</p> <p>B. List actions taken and staff you have contacted, before submitting this grievance.</p> <p>APPEAL PENDING</p>		

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Facility Grievance Coordinator

Date

WHITE - Facility Grievance Coordinator Copy CANARY - File Copy PINK - Action Return Copy GOLDENROD - Inmate Copy

Revised
December 2000

Exhibit

(A2)



(12)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
SCI-PITTSBURGH
(412) 761-1955
Date: June 8, 2004

SUBJECT: Grievance Rejection Form

TO: RILEY, Leroy EQ8672

A1-A-1015

FROM:

Carol A. Scire
Facility Grievance Coordinator

Carla Scire

FOR OFFICIAL USE ONLY

85969

GRIEVANCE NUMBER

The attached Inmate Grievance is being returned to you because you have failed to comply with the provision(s) of DC ADM 804, Inmate Grievance System:

- 1 ☒ Grievances related to the following issues shall be handled according to procedures specified in the policies listed and shall not be reviewed by the Facility Grievance Coordinator:
 - a. DC ADM 801, Inmate Disciplinary and Restricted Housing Unit Procedures.
 - b. DC ADM 802, Administrative Custody Procedures.
 - c. Other policies not applicable to DC ADM 804.
- 2 ☐ Block B must be completed, as per the instruction #3 of the Official Inmate Grievance Form.
- 3 ☐ The grievance does not indicate that you were personally affected by a Department or facility action or policy.
- 4 ☐ Group grievances are prohibited.
- 5 ☐ The grievance was not signed and/or dated.
- 6 ☐ Grievances must be legible and presented in a courteous manner.
- 7 ☐ The grievance exceeded the two (2) page limit. Description needs to be brief.
- 8 ☐ Grievances based upon different events shall be presented separately.
- 9 ☐ The grievance was not submitted within fifteen (15) working days after the events upon which claims are based.
- 10 ☐ You are currently under grievance restriction. You are limited to file one (1) grievance every ten (10) working days. You filed grievance # on. You may file your next grievance on.
- 11 ☐ Grievance involves matter(s) that occurred at another facility and should be directed by the inmate to the appropriate facility.
- 12 ☐ The issue(s) presented on the attached grievance has been reviewed and addressed previously.

NOTE: Please use the assigned grievance number when resubmitting your grievance.

Exhibit (B)
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

Office of the Chief Hearing Examiner
1451 North Market Street
Elizabethtown, PA 17022

INMATE NAME: LeRoy Riley

INMATE #: EQ8672

INSTITUTION: Pittsburgh **Misconduct Number:** A602109

FROM: Robert S. Bitner
Chief Hearing Examiner

DATE : September 14, 2004

This is to acknowledge receipt of your appeal to final review of the above numbered misconduct.

In accordance with DC ADM 801, VI L, 3b, inmates appeal for final review of their misconducts are responsible for providing the Chief Hearing Examiner with a brief statement relative to issues and any available paperwork or documentation relevant to the appeal. A proper appeal for final review should include photocopies of the Misconduct Report, Hearing Examiner's report, the Inmate Version and Witness forms (if applicable), Appeal to PRC, PRC Response, Appeal to Superintendent, and the Superintendent's response.

Your appeal to final review failed to include one or more of the documents necessary to complete final review. Accordingly, my office has contacted your institution to request copies of the entire record of this misconduct as well as appeals at the institution level.

This notice is to advise you that, although we have received your appeal, the response at final review will be delayed pending receipt of the records requested from the institution. Your appeal will be reviewed and responded to within seven (7) working days of receipt of all necessary records for review pursuant to DC ADM 801, VI L, 3c.

ADDITIONAL COMMENTS:

Sent for a copy of the Superintendent's appeal response.

EXHIBIT

(C)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

September 20, 2004

Leroy Riley, FQ-8672
SCI Pittsburgh

Re: DC-ADM 801 - Final Review
Misconduct No. A602109

Dear Mr. Riley:

Your appeal of the above-referenced misconduct has been referred to this office for review. However, our inquiry into this matter reveals that you have not yet appealed to the Superintendent of your institution as required by DC-ADM 801. Until this appeal is completed, final review cannot be granted. Upon receiving the response from your appeal to the Superintendent, you may once again submit a timely written appeal for final review.

This response does not grant you a right to an appeal if it would otherwise be untimely to pursue that appeal. However, in evaluating the timeliness of any appeal you submit, the time consumed by erroneously directing your appeal to this office may be disregarded at the discretion of the recipient of your next appeal.

Sincerely,



Robert S. Bitner
Chief Hearing Examiner

RSB:krc

pc: Superintendent Good

EXHIBIT (D)

RECEIVED

OCT 01 2004

Form DC-135A

Commonwealth of Pennsylvania
Department of Corrections
Pittsburgh Correctional Institution

INMATE'S REQUEST TO STAFF MEMBER

MR Good

INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)

2. Date:

9/25/04

3. By: (Print Inmate Name and Number)

LEROY RILEY # Q8670

4. Counselor's Name

MR. SCORIN

Leroy Riley

Inmate Signature

5. Unit Manager's Name

MR. HOLLAND

6. Work Assignment

None

7. Housing Assignment

A2 B 1016

8. Subject: State your request completely but briefly. Give details.

Please Respond
documents

9. Response: (This Section for Staff Response Only)

To DC-14 CAR only ☐To DC-14 CAR and DC-15 IRS ☐Staff Member Name _____ / _____
Print Sign Date _____

Exhibit - (E)

Leror Riley FQ 8672

Superintendent Officie
SCI Pittsburgh
P.O. Box 99901
Pittsburgh, Pa. 15233

Date 12/5/04

Dear Sir,

Good day, On are about / / , I filed for a review of my misconduct I received on 7/28/2004 they had informed me that it had to go through the Superintendent office first. On are around / / I sent this information to you along with my complaint and documents pertaining to the misconduct them. I did not receive a responce back from your office. Again on are around / / I informed you that I did not received a responce from your office I'm still waiting to hear from you. I will wait a just a few more days for your responce to this request, if I do not here back from you, I will have no choice but to send it back off to the Chief hearing examiner with out your responce.

Issue:

I was wrongly accuse of hitting inmate Mr Taylor. The evidence against me was fabracated, I got a misconduct back saying two CSIs were in a location to observe the violation. I know in my soul this is not true, for 1, I did not strike Mr taylor. 2, This took place at 6am the jail was lock down at that time, no one was out as to see or hear. 3. You can not hear some one getting strike in there side or mid siction through thouse thick cell walls 'try it you'll see" If there were two CSIs they would of have to had been next door as to hear, but it's still imposable. 5 The misconduct report don't match the (The two CSIs change there statements) one from the misconduct hearing (In-camera report) 6. The hearing examiner never reviewed the in-camera report, she took this information over the phone information like where were the CSI located at the time

EXHIBIT (F)

Superintendent Office

Form DC-135A		Commonwealth of Pennsylvania Department of Corrections	
INMATE'S REQUEST TO STAFF MEMBER		INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.	
Superintendent			
1. To: (Name and Title of Officer)		2. Date:	12/10/04
3. By: (Print Inmate Name and Number)		4. Counselor's Name	SORBIN
LEROY RILEY FQ8672		5. Unit Manager's Name	HOLLON
Inmate Signature		6. Work Assignment	Block worker
		7. Housing Assignment	B1605
8. Subject: State your request completely but briefly. Give details.			
Please read what's in closed			
<div style="border: 1px solid black; padding: 5px; text-align: center;"> RECEIVED SCI-PITTSBURGH JAN 05 2005 SUPERINTENDENT ASSISTANT II </div>		ISSUE OVER FERN DISCIPLINARY CONVICTION	
9. Response. (This Section for Staff Response Only)			
To DC-14 CAR only <input type="checkbox"/>		To DC-14 CAR and DC-15 IRS <input type="checkbox"/>	

Staff Member Name _____ / _____
Print Sign Date

Exhibit - (6)



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
SCI-PITTSBURGH
(412) 761-1955
January 5, 2005

Subject: Misconduct Appeal

To: Leroy Riley, FQ-8672

From: Thomas W. Seiverling
Superintendent Assistant

This is in response to your communication to Supt. Stowitzky. I have reviewed both your institutional record and the files in the superintendent's office and I can find no indication that any appeal of misconduct #A602109 was ever received by the superintendent. As of this date, the time period for appealing this issue has long since expired.

TWS

cc: DC-15